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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

PETER DELVECCHIA, individually and as  
next friend of A.D., a Minor,

*Plaintiffs,*

v.

FRONTIER AIRLINES, INC. and  
JOHN DOES 1 through 5, inclusive,

*Defendants.*

Case No.: 2:19-cv-01322-KJD-DJA

**JOINT MOTION FOR ENTRY OF  
PARTIES' AGREED PROTECTIVE  
ORDER REGARDING SENSITIVE  
SECURITY INFORMATION**

**JOINT MOTION FOR ENTRY OF PARTIES' AGREED PROTECTIVE ORDER REGARDING  
SENSITIVE SECURITY INFORMATION**

Plaintiffs PETER DELVECCHIA, individually and as next friend of A.D., a Minor (collectively  
"Plaintiffs") and Defendants FRONTIER AIRLINES, INC. ("Frontier"), REX SHUPE, and SCOTT  
WARREN, each by their undersigned counsel, pursuant to Fed. R. Civ. P. 26 and LR 7-1, submit the  
following Joint Motion for Entry of Parties' Agreed Protective Order Regarding Sensitive Security  
Information and state:

1           1.       This civil action arises from an incident that occurred on March 28, 2019, onboard Frontier  
2 Flight 2067 from Raleigh, North Carolina to Las Vegas, Nevada. (ECF No. 1.)

3           2.       During the course of discovery, Plaintiffs have sought from Frontier certain documents that  
4 have been identified as containing sensitive security information (“SSI”). Under 49 CFR §1520.5 and 49  
5 CFR §1520.9, Frontier is prohibited from producing such documents to Plaintiffs, unless authorized by  
6 the Transportation Security Administration (“TSA”).

7           3.       On April 1, 2020, this Court granted Plaintiff Peter DelVecchia’s motion (ECF No. 60)  
8 filed pursuant to 49 C.F.R. §1520.7 and §525(d) of the Department of Homeland Security Appropriations  
9 Act of 2007, Pub. L. No. 109-295, 120 Stat. 1355, 1382 (October 4, 2006), to designate Peter and his  
10 attorney John McKay as “covered persons” able to receive and view SSI related to this case and for which  
11 Peter has substantial need to conduct depositions and otherwise prepare his case. The Court’s Order (ECF  
12 No. 76) specifically found it warranted for “the requested information to be disclosed in accordance with  
13 the confidential designation under the parties’ protective order.” *Id.* at 3. The Court added: “However, the  
14 Court will require that Plaintiff and his counsel comply with any security background check or other  
15 procedures and requirements for safeguarding SSI that are satisfactory to TSA.” *Id.*

16           4.       The TSA recently authorized the disclosure of SSI to Plaintiffs under 49 CFR §1520.11  
17 and 49 CFR §1520.15, upon satisfactory completion of a security background check or other procedures  
18 and requirements for safeguarding SSI that are satisfactory to the TSA. *Ibrahim v. Dep’t of Homeland*  
19 *Sec.*, 669 F.3d 983, 999 (9th Cir. 2012); *Office of the People’s Counsel v. PSC of the D.C.*, 21 A.3d 985,  
20 994 n.17 (D.C. 2011). Both Peter DelVecchia and Attorney McKay have completed the background  
21 checks with results satisfactory to the TSA. However, the TSA also required that its own protective order  
22 be entered in the case before it would permit disclosure of the SSI. Disagreements over the language of  
23 that proposed additional protective order, especially in light of the Court’s April 1, 2020, Order, led to  
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1 protracted negotiations and eventually to a status conference before Magistrate Judge Albregts on March  
2 23, 2021, and to Plaintiffs filing a Motion for Order to Show Cause on May 6, 2021 (ECF No. 122).

3 5. The TSA subsequently agreed to certain amendments requested by Plaintiffs. In order for  
4 the SSI to be produced to Plaintiffs in this matter, and to resolve the Motion for Order to Show Cause, the  
5 parties have agreed to the terms of an Agreed Protective Order Regarding SSI, which will allow Frontier to  
6 designate SSI materials, as necessary, as “CONFIDENTIAL – SUBJECT TO SSI PROTECTIVE ORDER”  
7 pursuant to the terms and conditions set forth in the Agreed Protective Order Regarding SSI. (Parties’ Agreed  
8 Protective Order Regarding SSI attached as Exhibit A.)  
9

10 6. Nothing in the Parties’ Agreed Protective Order Regarding SSI will prevent a party from using  
11 SSI information or documents produced pursuant to such Order during mediation, arbitration, deposition,  
12 trial, or any other proceeding in this litigation. *Id.*  
13

14 7. Further, all materials filed with the Court that contain or refer to SSI information shall be filed  
15 under seal in accordance with the requirements and procedures set forth in the Court’s Local Rules. *Id.*  
16

17 WHEREFORE, Plaintiffs PETER DELVECCHIA, individually and as next friend of A.D., a Minor,  
18 and Defendants FRONTIER AIRLINES, INC., REX SHUPE, and SCOTT WARREN respectfully request  
19 that this honorable court grant their Joint Motion for Entry of Agreed Protective Order Regarding SSI, enter  
20 the attached Parties’ Agreed Protective Order Regarding SSI, and order any further relief this Court deems  
21 necessary and proper.

22 DATED this 15<sup>TH</sup> day of June, 2021

Respectfully submitted,

23 **PETER DELVECCHIA and A.D., a Minor**

**FRONTIER AIRLINES, INC., REX SHUPE  
and SCOTT WARREN**

24 /s/ John D. McKay

/s/ Brian T. Maye

25 John D. McKay (admitted *pro hac vice*)  
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**CERTIFICATE OF SERVICE**

Pursuant to LR IC 4-1, I hereby certify that I on the 15<sup>TH</sup> day of June, 2021, the foregoing **JOINT MOTION FOR ENTRY OF PARTIES' AGREED PROTECTIVE ORDER REGARDING SSI** was filed with the United States District Court for the District of Nevada using the CM/ECF System.

/s/ Brian T. Maye